

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**KATHLEEN ANN WARREN**  
16404 Avenida Venusto, #E  
San Diego, CA 92128

**Certified Public Accountant**  
**Certificate No. 57016**

Respondent.

Case No. AC-2010-20


OAH No. OAH No. 2010120279

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on Aug 27, 2011.

It is so ORDERED July 28, 2011.

  
\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
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**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**  
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**San Diego, CA 92128**

15 **Certified Public Accountant**  
16 **Certificate No. 57016**

17 Respondent.

Case No. AC-2010-20

OAH No. OAH No. 2010120279

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
23 Accountancy. She brought this action solely in her official capacity and is represented in this  
24 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,  
25 Deputy Attorney General.

26 2. Respondent Kathleen Ann Warren (Respondent) is represented in this proceeding by  
27 attorney Stephanie Perkins, whose address is: Chapman Gluckman Dean Roab & Barger  
28 11900 W. Olympic Blvd., #800, Los Angeles, CA 90064.

1           3.     On or about September 8, 1990, the California Board of Accountancy issued Certified  
2 Public Accountant Certificate No. 57016 to Kathleen Ann Warren (Respondent). The Certified  
3 Public Accountant Certificate was in full force and effect at all times relevant to the charges  
4 brought in Accusation No. AC-2010-20 and will expire on August 31, 2011, unless renewed.

5                                   JURISDICTION

6           4.     Accusation No. AC-2010-20 was filed before the California Board of Accountancy  
7 (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The  
8 Accusation and all other statutorily required documents were properly served on Respondent on  
9 October 1, 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A  
10 copy of Accusation No. AC-2010-20 is attached as Exhibit A and incorporated herein by  
11 reference.

12                                   ADVISEMENT AND WAIVERS

13           5.     Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. AC-2010-20. Respondent has also carefully read, fully  
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
16 Order.

17           6.     Respondent is fully aware of her legal rights in this matter, including the right to a  
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
19 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
21 documents; the right to reconsideration and court review of an adverse decision; and all other  
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23           7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

25                                   CULPABILITY

26           8.     Respondent admits the truth of each and every charge and allegation in Accusation  
27 No. AC-2010-20.  
28

9. Respondent agrees that her Certified Public Accountant Certificate is subject to discipline and agrees to be bound by the CBA's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the CBA regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 57016 issued to Respondent Kathleen Ann Warren (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant Certificate No. 57016 issued to Kathleen Ann Warren is suspended for six (6) months. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the CBA, provided notification of such review is accomplished in

1 a timely manner.

2 7. **Comply With Citations.** Respondent shall comply with all final orders resulting  
3 from citations issued by the Board of Accountancy.

4 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
5 Respondent should leave California to reside or practice outside this state, Respondent must  
6 notify the CBA in writing of the dates of departure and return. Periods of non-California  
7 residency or practice outside the state shall not apply to reduction of the probationary period, or  
8 of any suspension. No obligation imposed herein, including requirements to file written reports,  
9 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise  
10 affected by such periods of out-of-state residency or practice except at the written direction of the  
11 CBA.

12 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,  
13 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry  
14 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is  
15 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the  
16 matter is final, and the period of probation shall be extended until the matter is final.

17 10. **Completion of Probation.** Upon successful completion of probation, Respondent's  
18 license will be fully restored.

19 11. **Active License Status.** Respondent shall at all times maintain an active license  
20 status with the CBA, including during any period of suspension. If the license is expired at the  
21 time the CBA's decision becomes effective, the license must be renewed within 30 days of the  
22 effective date of the decision.

23 12. **Cost Reimbursement.** Respondent shall reimburse the CBA \$9,024.89 for its  
24 investigation and prosecution costs. The payment shall be made within six (6) months of the date  
25 the CBA's decision is final. Alternatively, Respondent may pay pursuant to a payment plan  
26 presented to and accepted by the CBA.



**Exhibit A**

**Accusation No. AC-2010-20**



1 EDMUND G. BROWN JR.  
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2 JAMES M. LEDAKIS  
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14 **KATHLEEN ANN WARREN**  
**14955 Avenida Venusto, #2**  
**San Diego, CA 92128**

**A C C U S A T I O N**

15 **Certified Public Accountant Certificate No.**  
16 **57016**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
22 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
- 23 2. On or about September 8, 1990, the California Board of Accountancy issued Certified  
24 Public Accountant Certificate Number 57016 to Kathleen Ann Warren (Respondent). The  
25 Certified Public Accountant Certificate was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on August 31, 2011, unless renewed.
- 27  
28

## JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 5100 states:

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

....

5. Section 5109 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

## STATUTORY PROVISIONS

6. Section 5063(b)(2) of the Code states:

(b) A licensee shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2003, within 30 days of the date the licensee has knowledge of the events:

(2) Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater and where the licensee is not insured for the full amount of the award.

7. Title 11 of the United States Code section 727(a) provides in part:

(a) The court shall grant the debtor a discharge, unless -

....

1 (2) the debtor, with intent to hinder, delay, or defraud a creditor or an  
2 officer of the estate charged with custody of property under this title, has  
3 transferred, removed, destroyed, mutilated, or concealed, or has permitted to be  
4 transferred, removed, destroyed, mutilated, or concealed -

5 (A) property of the debtor, within one year before the date of the  
6 filing of the petition; or

7 . . . .

8 (4) the debtor knowingly and fraudulently, in or in connection with the  
9 case -

10 (A) made a false oath or account;

11 . . . .

#### 12 COST RECOVERY

13 8. Section 5107 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay to the Board the reasonable costs of the investigation and prosecution of  
16 the case, including but not limited to attorneys' fees.

#### 17 CAUSE FOR DISCIPLINE

18 (Knowing Preparation, Publication, or Dissemination of False, Fraudulent, or Materially  
19 Misleading Financial Statements, Reports or Other Information)

20 9. Respondent is subject to disciplinary action under section 5100(j) of the Code for  
21 knowingly preparing, publicizing, or disseminating false, fraudulent, or materially misleading  
22 financial statements, reports or other information. The circumstances are as follows:

23 10. On October 30, 2008, Respondent reported to the Board pursuant to section  
24 5063(b)(2) of the Code, a civil action settlement entered on October 2, 2008 and an Order and  
25 Judgment arising out of related Bankruptcy proceedings prior to the civil settlement. The facts  
26 and circumstances surrounding the civil action settlement and Order and Judgment are as follows:

27 11. In or around 1998, A.M. and Z.M. became business associates of Respondent and  
28 Respondent's husband. After a falling out, on or about September 26, 2002, A.M. and Z.M. filed  
suit against Respondent and her husband in Pennsylvania state court, asserting various claims  
including fraud, conversion, and breach of contract. In October 2002, Respondent and her

1 husband filed suit on behalf of the business, against A.M. and Z.M. in federal court in California.  
2 A.M. and Z.M. voluntarily dismissed their complaint in Pennsylvania, choosing instead to assert  
3 their claims as third-party claims against Respondent and her husband in the California federal  
4 litigation. On March 16, 2004, approximately four months before the trial in the California  
5 federal litigation was set to begin, the parties attended a settlement conference. During the  
6 settlement conference, it became apparent that Respondent and her husband did not think they  
7 would be able to fund the trial, and they became frustrated because A.M. and Z.M. refused to  
8 accept a settlement offer. Two days later, on or about March 18 and then again on March 23,  
9 Respondent and her husband met with bankruptcy counsel.

10 12. On April 22, 2004, Respondent and her husband filed a petition for bankruptcy  
11 under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court, District of Utah.  
12 On or about May 7, 2004, Respondent and her husband filed the Statement of Financial Affairs  
13 and supporting schedules, which correspond to the petition for bankruptcy. Prior to and in  
14 anticipation of filing the petition for bankruptcy, Respondent and her husband generated  
15 approximately \$90,000 in cash by selling many of their assets, then utilized the funds to purchase  
16 exempt assets and prepay future living expenses. Upon completion of all the pre-bankruptcy  
17 transactions, Respondent and her husband had no substantial realizable assets that could be  
18 liquidated to repay their over 6,000 creditors. When Respondent and her husband filed their  
19 bankruptcy paperwork, they did not list some of the sales and expenditures, and only added some  
20 of the omitted transactions after it was discovered by A.M. and Z.M.

21 13. Because the filings indicated that Respondent and her husband had essentially no  
22 assets available for creditors, A.M. and Z.M. filed a complaint to prevent Respondent and her  
23 husband from obtaining a discharge in bankruptcy on the grounds that they had transferred and  
24 concealed property to "hinder, delay or defraud" creditors under 11 U.S.C. section 727(a)(2)(a)  
25 and that they had "made a false oath or account" in the bankruptcy proceeding under section 11  
26 U.S.C. section 727(a)(4)(A). On March 28, 2005, the bankruptcy court issued a judgment  
27 denying the discharge on both grounds and issued a 39 page Memorandum Decision outlining the  
28 court's findings. Following its analysis of Respondent's asset sales and transactions (including a

1 coin collection), as well as, purchases, prepayments, and other transactions, the court concluded  
2 that evidence was found "in support of fraudulent intent" on the part of Respondent. The court  
3 found that the plaintiffs, A.M. and Z.M., had met their burden of proof, in showing that "(1) the  
4 debtor transferred, removed, concealed, destroyed, or mutilated, (2) property of the estate, (3)  
5 within one year prior to the bankruptcy filing, (4) with the intent to hinder, delay or defraud a  
6 creditor."

7 14. The court also found that Respondent and her husband "ha[d] abused pre-  
8 bankruptcy planning because their purpose was to place assets out of reach" of the plaintiffs. In  
9 reaching its decision, the court found that Respondent's omissions were knowingly and  
10 fraudulently made and that the omissions were material. The court made specific credibility  
11 findings about Respondent, finding that "... her testimony, protestations notwithstanding, [were]  
12 inconsistent in several significant respects" and that her "statements that she gave no thought to  
13 creditors (especially the [plaintiffs]) during the time she was liquidating assets and spending the  
14 proceeds [was] simply not credible." The court "reject[ed] the excuse that the Warrens were too  
15 busy, did not understand, were forgetful, or simply were inadvertently mistaken in their answers."  
16 Instead, the court concluded that "they were attempting to use up all their assets so the [creditors]  
17 ... would receive nothing, and they were intending to hide transactions in their bankruptcy  
18 papers." The court also noted that "[m]any of the badges of fraud have been proven, and [their]  
19 explanation of their conduct [was] not credible."

20 15. Respondent and her husband appealed to the Tenth Circuit Bankruptcy Appellate  
21 Panel (BAP), which affirmed the denial of discharge under 11 U.S.C. section 727(a)(2) and  
22 concluded that "the bankruptcy judge was within her discretion in finding there was sufficient  
23 evidence of the requisite number of badges of fraud to justify denial of both of the Warrens'  
24 discharges." Respondent and her husband then appealed to the Tenth Circuit United States Court  
25 of Appeals, which affirmed the BAP, finding that the bankruptcy court could properly find that  
26 Respondent and her husband had engaged in a variety of unreported or otherwise deceitful  
27 transactions whose overriding purpose was to prevent plaintiffs from recovering any money from  
28 the Respondent's bankruptcy estate. Respondent and her husband then filed an application for an

1 extension of time to file a writ of certiorari for a hearing of the Appellate Court's decision in the  
2 United States Supreme Court. Their application was denied by the U.S. Supreme Court on or  
3 about April 29, 2008.

4 16. On October 2, 2008, Respondent and her husband entered into a confidential  
5 Settlement and Release Agreement with A.M. and Z.M., wherein they agreed to pay A.M. and  
6 Z.M. a substantial amount of money. Under the terms of the settlement, the former partners  
7 stated that their complaints were unrelated to acts of public accountancy.

8 **PRAYER**

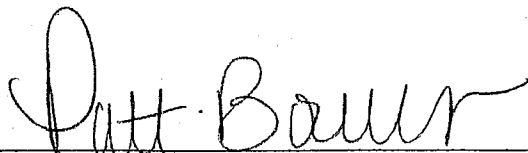
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the California Board of Accountancy issue a decision:

11 1. Revoking or suspending or otherwise imposing discipline upon Certified Public  
12 Accountant Certificate Number 57016, issued to Kathleen Ann Warren;

13 2. Ordering Kathleen Ann Warren to pay the California Board of Accountancy the  
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 5107;

16 3. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: 9/14/2010



19 PATTI BOWERS  
20 Executive Officer  
21 California Board of Accountancy  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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